

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SAMUEL R. HOGSETT,

Defendant.

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No. 05-CR-30196-WDS

MEMORANDUM & ORDER

Before the Court is defendant's motion for retroactive application of the Advisory Sentencing Guidelines (Doc. 140) a second motion for retroactive application (Doc. 153) and two motions for appointment of counsel (Docs. 154 and 157).

Pursuant to Administrative Order 102 the Court appointed the Office of the Federal Public Defender to represent the defendant on his motion for retroactive application and sentence reduction (Doc. 143). The case was assigned to Assistant Federal Public Defender Renee Schooley who concluded that the defendant did not qualify for a reduction, and therefore did not file a supplement to defendant's motion. With the filing of the second motion for retroactive application, the Court reappointed the Federal Defender (Doc. 155). The defendant has filed a motion for appointment of new counsel due to a conflict of interest (Doc. 157).

In this case, the defendant was sentenced to a term of imprisonment of 355 months (295 months on Counts 1 and 2 and 60 months consecutive on Count 3). He was sentenced as both an armed career offender and a career offender. The Seventh Circuit has held that "the amendments [to the Advisory Sentencing Guidelines for crack cocaine offenses] leave the career-offender guideline unchanged" *United States v. Griffin*, 652 F.3d 793, 803 (7th Cir. 2011). A review of the record reveals that the defendant was sentenced as a career offender, so the relief which the

defendant seeks is not available to him.

Therefore, the Court **FINDS** that the defendant is ineligible for a reduction under any of the amendments to the Advisory Sentencing Guidelines for crack cocaine offenses. Accordingly, the Court **DENIES** his motions for retroactive application of the sentencing guidelines (Docs. 140 and 153), and further, **DENIES** as moot his motions for appointment of counsel (Doc. 153) and for substitution of attorney (Doc. 157).

IT IS SO ORDERED.

DATE: 19 April, 2012

s/ WILLIAM D. STIEHL
DISTRICT JUDGE